

Notice of Allowability

Application No.

10/764,395

Examiner

Richard L. Leung

Applicant(s)

CHALLENGER, JEAN

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3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 11 April 2005.
2. ☒ The allowed claim(s) is/are 20.
3. ☒ The drawings filed on 23 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Allowable Subject Matter

1. Claim 20 is allowed.
2. The following is an examiner's statement of reasons for allowance:

In the amendment filed 11 April 2005, claims 1-19, 21, and 22 have been cancelled and claim 20 has been rewritten in independent form. Claim 20 was previously rejected under 35 U.S.C 103(a) as being unpatentable over the combination of Bazemore et al. (US 5345784), Devlin (US 3715895), Slaughter (US 4981234), Spitler (US 5005374), and Chinook (US 181909). Applicant argues, on pages 8 and 9 of remarks filed 11 April 2005, that it would not have been obvious to one of ordinary skill in the art to have combined the teachings of Chinook with the other cited references because Chinook is directed towards non-analogous art, and because the Examiner has failed to provide sufficient motivation drawn from the references to combine these teachings. After careful reconsideration, the Examiner agrees with Applicant's arguments.

Chinook was relied upon for teaching the shell and dome-type closure required by the claim, and demonstrates that by itself, such a structure is already known in the prior art. Though Chinook teaches the use of said closure for lamp devices and proposes other applications such as inkstands (see Chinook, paragraph 8), there is no explicit suggestion in Chinook to combine said closure with the teachings of Bazemore et al., Devlin, Slaughter, and Spitler which are each drawn towards cooled receptacles. While the Examiner presented advantages that would conceivably result from adding

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the closure of Chinook to the combination of the other references, it cannot be shown with sufficient specificity that such advantages are derived from the cited prior art. Therefore minus a clear suggestion in the cited prior art, it cannot be concluded that one of ordinary skill in the art would have been motivated to combine the teachings of Chinook with Bazemore et al., Devlin, Slaughter, and Spitler to produce Applicant's claimed invention. Accordingly the rejection of claim 20 is withdrawn, and claim 20 is considered allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Leung whose telephone number is 571-272-4811. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Leung
Examiner
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CHERYL TYLER

SUPERVISORY PATENT EXAMINER

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